

REMARKS

Claims 1-16, 19-46, 48-97, and 99-105 are now pending in the application.

The claims are NOT amended by this amendment.

The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

INTERVIEW SUMMARY

During May several interviews were granted between Michael Taylor and Examiners Michael Hayse and Ruth Smith. During the interviews the outstanding rejections and objections were discussed.

It was agreed that the concurrently filed Supplemental Reissue Declaration would overcome the objection to the Original Reissue Declaration and that it would be accepted as unsigned based on Applicant's previously filed Petition, as discussed herein.

CONSENT OF ASSIGNEE

This application stands objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent.

Applicants submit herewith a Consent of Assignee from Medtronic, Inc. the sole assignee as shown by the Statement of Assignee's right to prosecute file on February 24, 2003.

SUPPLEMENTAL REISSUE DECLARATION

The Office Submits that the reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. Specifically, that an error is noted in patented Claim 14, but that patented Claim 14 is not amended. Therefore, Claims 1-16, 19-46, 48-97 and 99-105 stand rejected as being based upon a defective reissue Declaration under 35 U.S.C. 251 as set forth above.

Applicants discussed, as summarized above, the originally filed reissue Declaration with Examiner Ruth Smith and Examiner Michael Hayes. During the discussions, it was indicated that patented Claim 14 was not amended, but that new Claim 48 was drafted to correct the originally noted error. To expedite prosecution, however, a new Supplemental Reissue Declaration is being filed concurrently herewith that states a new error.

The error of the original Declaration at least stated "More particularly, I claimed less literally than I had a right to claim in the patent; namely, by limiting all of the claims of the patent to the recitation of elements unnecessary to define the invention in a literal reading of its broadest aspects" Accordingly, there was a clear and unequivocal statement of the intent to **broaden** at the time of filing the subject application. In addition, at least Claim 17, now canceled, was broader than any patented claim and was filed with the subject application.

As noted above, the new Supplemental Reissue Declaration includes a new error, as discussed with Examiner Hayes. The new error is noted to be in patented

Claim 1 and is also a broadening error. Applicants submit that at least currently pending Claim 19 corrects the stated error.

The Supplemental Reissue Declaration is **NOT** signed by any of the original inventors. A petition under 37 CFR §1.47(b) was filed and was **GRANTED** on January 17, 2012 under 37 CFR §1.183 that allowed acceptance of a previously filed and unsigned Supplemental Reissue Declaration based on the refusal of all of the inventors. Discussions with Examiner Smith and Examiner Hayse reached an agreement that the previously filed petition and the decision of January 17, 2012 would act to allow acceptance of ALL unsigned Supplemental Reissue Declaration from the named inventors. Thus, Applicants request that the concurrently submitted Supplemental Reissue Declaration be accepted and that all of the pending claims be allowed, as discussed with Examiners Hayse and Smith on May 18, 2012.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: Richard W. Warner
Richard W. Warner, Reg. No. 38,043
Michael L. Taylor, Reg. No. 50,521

HARNES, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

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